

ASSEMBLY BILL

No. 1743

Introduced by Assembly Member Ting

February 14, 2014

An act to amend Sections 4144.5, 4145.5, and 4148.5 of, and to repeal Sections 4144, 4145, 4148, and 4149.5 of, the Business and Professions Code, and to amend Section 11364.1 of, and to repeal Section 11364 of, the Health and Safety Code, relating to public health.

LEGISLATIVE COUNSEL'S DIGEST

AB 1743, as introduced, Ting. Hypodermic needles and syringes.

Existing law, until January 1, 2015, authorizes a pharmacist or physician to furnish 30 or fewer hypodermic needles and syringes for human use to a person 18 years of age or older solely for his or her personal use.

This bill would delete that January 1, 2015, date of repeal and would authorize a pharmacist or physician to provide an unlimited number of hypodermic needles and syringes to a person 18 years of age or older solely for his or her personal use.

Under existing law it is unlawful to possess an opium pipe or any device, contrivance, instrument, or paraphanelia used for unlawfully injecting or smoking specified controlled substances. Existing law, until January 1, 2015, exempts from this prohibition the possession of 30 or fewer hypodermic needles and syringes if acquired from an authorized source.

This bill would delete that January 1, 2015, date of repeal and would exempt the possession of any amount of hypodermic needles and syringes that are acquired from an authorized source.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 4144 of the Business and Professions
2 Code is repealed.

3 ~~4144. (a) A person may sell or obtain hypodermic needles and~~
4 ~~hypodermic syringes without a prescription or permit, for uses that~~
5 ~~the board determines are industrial, and that person shall not be~~
6 ~~required to comply with Section 4145 or 4146.~~

7 ~~(b) This section shall be inoperative until January 1, 2015.~~

8 SEC. 2. Section 4144.5 of the Business and Professions Code
9 is amended to read:

10 4144.5. ~~(a)~~ A person may sell or obtain hypodermic needles
11 and hypodermic syringes without a prescription or permit, for uses
12 that the board determines are industrial, and that person shall not
13 be required to comply with Section 4145.5 or 4146.

14 ~~(b) This section shall remain in effect only until January 1, 2015,~~
15 ~~and as of that date is repealed, unless a later enacted statute, that~~
16 ~~is enacted before January 1, 2015, deletes or extends that date.~~

17 SEC. 3. Section 4145 of the Business and Professions Code is
18 repealed.

19 ~~4145. (a) Notwithstanding any other provision of law, a~~
20 ~~pharmacist or physician may, without a prescription or a permit,~~
21 ~~furnish hypodermic needles and syringes for human use, and a~~
22 ~~person may, without a prescription or license, obtain hypodermic~~
23 ~~needles and syringes from a pharmacist or physician for human~~
24 ~~use, if one of the following requirements is met:~~

25 ~~(1) The person is known to the furnisher and the furnisher has~~
26 ~~previously been provided a prescription or other proof of a~~
27 ~~legitimate medical need requiring a hypodermic needle or syringe~~
28 ~~to administer a medicine or treatment.~~

29 ~~(2) Pursuant to authorization by a county, with respect to all of~~
30 ~~the territory within the county, or a city, with respect to the territory~~
31 ~~within the city, for the period commencing January 1, 2005, and~~
32 ~~ending December 31, 2018, a pharmacist may furnish or sell 10~~
33 ~~or fewer hypodermic needles or syringes at any one time to a~~
34 ~~person 18 years of age or older if the pharmacist works for a~~
35 ~~pharmacy that is registered with the Disease Prevention~~

1 ~~Demonstration Project pursuant to Chapter 13.5 (commencing~~
2 ~~with Section 121285) of Part 4 of Division 105 of the Health and~~
3 ~~Safety Code and the pharmacy complies with the provisions of~~
4 ~~that chapter.~~

5 ~~(b) Notwithstanding any other provision of law, a pharmacist,~~
6 ~~veterinarian, or person licensed pursuant to Section 4141 may,~~
7 ~~without a prescription or license, furnish hypodermic needles and~~
8 ~~syringes for use on animals, and a person may, without a~~
9 ~~prescription or license, obtain hypodermic needles and syringes~~
10 ~~from a pharmacist, veterinarian, or person licensed pursuant to~~
11 ~~Section 4141 for use on animals, providing that no needle or~~
12 ~~syringe shall be furnished to a person who is unknown to the~~
13 ~~furnisher and unable to properly establish his or her identity.~~

14 ~~(c) This section shall be inoperative until January 1, 2015.~~

15 SEC. 4. Section 4145.5 of the Business and Professions Code
16 is amended to read:

17 4145.5. (a) Notwithstanding any other provision of law, a
18 pharmacist or physician may, without a prescription or a permit,
19 furnish hypodermic needles and syringes for human use, and a
20 person may, without a prescription or license, obtain hypodermic
21 needles and syringes from a pharmacist or physician for human
22 use, if the person is known to the furnisher and the furnisher has
23 previously been provided a prescription or other proof of a
24 legitimate medical need requiring a hypodermic needle or syringe
25 to administer a medicine or treatment.

26 (b) Notwithstanding any other provision of law, as a public
27 health measure intended to prevent the transmission of HIV, viral
28 hepatitis, and other bloodborne diseases among persons who use
29 syringes and hypodermic needles, and to prevent subsequent
30 infection of sexual partners, newborn children, or other persons,
31 a physician or pharmacist may, without a prescription or a permit,
32 furnish ~~30 or fewer~~ hypodermic needles and syringes for human
33 use to a person 18 years of age or older, and a person 18 years of
34 age or older may, without a prescription or license, obtain ~~30 or~~
35 ~~fewer~~ hypodermic needles and syringes solely for personal use
36 from a physician or pharmacist.

37 (c) Notwithstanding any other provision of law, a pharmacist,
38 veterinarian, or person licensed pursuant to Section 4141 may,
39 without a prescription or license, furnish hypodermic needles and
40 syringes for use on animals, and a person may, without a

1 prescription or license, obtain hypodermic needles and syringes
2 from a pharmacist, veterinarian, or person licensed pursuant to
3 Section 4141 for use on animals, providing that no needle or
4 syringe shall be furnished to a person who is unknown to the
5 furnisher and unable to properly establish his or her identity.

6 (d) A pharmacy that furnishes nonprescription hypodermic
7 needles and syringes shall store hypodermic needles and syringes
8 in a manner that ensures that they are available only to authorized
9 personnel, and are not accessible to other persons.

10 (e) In order to provide for the safe disposal of hypodermic
11 needles and syringes, a pharmacy or hypodermic needle and syringe
12 exchange program that furnishes nonprescription hypodermic
13 needles and syringes shall provide consumers with one or more
14 of the following disposal options:

15 (1) It shall establish an onsite, safe, hypodermic needle and
16 syringe collection and disposal program that meets applicable state
17 and federal standards for collection and disposal of medical sharps
18 waste.

19 (2) It shall furnish, or make available, mail-back sharps
20 containers authorized by the United States Postal Service that meet
21 applicable state and federal requirements for the transport of
22 medical sharps waste, and shall provide tracking forms to verify
23 destruction at a certified disposal facility.

24 (3) It shall furnish, or make available, a sharps container that
25 meets applicable state and federal standards for collection and
26 disposal of medical sharps waste.

27 (f) A pharmacy that furnishes nonprescription syringes shall
28 provide written information or verbal counseling to consumers at
29 the time of furnishing or sale of nonprescription hypodermic
30 needles or syringes on how to do the following:

31 (1) Access drug treatment.

32 (2) Access testing and treatment for HIV and hepatitis C.

33 (3) Safely dispose of sharps waste.

34 ~~(g) This section shall remain in effect only until January 1, 2015,~~
35 ~~and as of that date is repealed, unless a later enacted statute, that~~
36 ~~is enacted before January 1, 2015, deletes or extends that date.~~

37 SEC. 5. Section 4148 of the Business and Professions Code is
38 repealed.

39 ~~4148. (a) All stocks of hypodermic needles or syringes shall~~
40 ~~be confiscated if found outside the licensed premises of any person~~

1 holding a permit under Section 4141 and found not in the
2 possession or under the control of a person entitled to an exemption
3 under Section 4143, 4144, or 4145.

4 (b) This section shall be inoperative until January 1, 2015.

5 SEC. 6. Section 4148.5 of the Business and Professions Code
6 is amended to read:

7 4148.5. (a) All stocks of hypodermic needles or syringes shall
8 be confiscated if found outside the licensed premises of any person
9 holding a permit under Section 4141 and found not in the
10 possession or under the control of a person entitled to an exemption
11 under Section 4143, 4144, 4144.5, or 4145.5, or under Section
12 11364.5, 121349, or 121349.1 of the Health and Safety Code.

13 (b) This section shall remain in effect only until January 1, 2015,
14 and as of that date is repealed, unless a later enacted statute, that
15 is enacted before January 1, 2015, deletes or extends that date.

16 SEC. 7. Section 4149.5 of the Business and Professions Code
17 is repealed.

18 4149.5. (a) Local authorizations related to Sections 4144,
19 4145, and 4148 of this code and Sections 11364 and 121285 of
20 the Health and Safety Code shall be inoperative until January 1,
21 2015.

22 (b) Local authorizations related to Sections 4144, 4145, and
23 4148 of this code and Sections 11364 and 121285 of the Health
24 and Safety Code shall again become operative on January 1, 2015,
25 unless the city, county, or city and county acts to remove the
26 authorization.

27 SEC. 8. Section 11364 of the Health and Safety Code is
28 repealed.

29 11364. (a) It is unlawful to possess an opium pipe or any
30 device, contrivance, instrument, or paraphernalia used for
31 unlawfully injecting or smoking (1) a controlled substance specified
32 in subdivision (b), (c), or (e) or paragraph (1) of subdivision (f) of
33 Section 11054, specified in paragraph (14), (15), or (20) of
34 subdivision (d) of Section 11054, specified in subdivision (b) or
35 (c) of Section 11055, or specified in paragraph (2) of subdivision
36 (d) of Section 11055, or (2) a controlled substance which is a
37 narcotic drug classified in Schedule III, IV, or V.

38 (b) This section shall not apply to hypodermic needles or
39 syringes that have been containerized for safe disposal in a

1 ~~container that meets state and federal standards for disposal of~~
2 ~~sharps waste.~~

3 ~~(e) Pursuant to authorization by a county, with respect to all of~~
4 ~~the territory within the county, or a city, with respect to the territory~~
5 ~~within the city, for the period commencing January 1, 2005, and~~
6 ~~ending December 31, 2018, subdivision (a) shall not apply to the~~
7 ~~possession solely for personal use of 10 or fewer hypodermic~~
8 ~~needles or syringes if acquired from an authorized source.~~

9 ~~(d) This section shall be inoperative until January 1, 2015.~~

10 SEC. 9. Section 11364.1 of the Health and Safety Code is
11 amended to read:

12 11364.1. (a) It is unlawful to possess an opium pipe or any
13 device, contrivance, instrument, or paraphernalia used for
14 unlawfully injecting or smoking (1) a controlled substance specified
15 in subdivision (b), (c), or (e), or paragraph (1) of subdivision (f)
16 of Section 11054, specified in paragraph (14), (15), or (20) of
17 subdivision (d) of Section 11054, specified in subdivision (b) or
18 (c) of Section 11055, or specified in paragraph (2) of subdivision
19 (d) of Section 11055, or (2) a controlled substance which is a
20 narcotic drug classified in Schedule III, IV, or V.

21 (b) This section shall not apply to hypodermic needles or
22 syringes that have been containerized for safe disposal in a
23 container that meets state and federal standards for disposal of
24 sharps waste.

25 (c) As a public health measure intended to prevent the
26 transmission of HIV, viral hepatitis, and other bloodborne diseases
27 among persons who use syringes and hypodermic needles, and to
28 prevent subsequent infection of sexual partners, newborn children,
29 or other persons, this section shall not apply to the possession
30 solely for personal use of ~~30 or fewer~~ hypodermic needles or
31 syringes if acquired from a physician, pharmacist, hypodermic
32 needle and syringe exchange program, or any other source that is
33 authorized by law to provide sterile syringes or hypodermic needles
34 without a prescription.

35 ~~(d) This section shall remain in effect only until January 1, 2015,~~
36 ~~and as of that date is repealed, unless a later enacted statute, that~~
37 ~~is enacted before January 1, 2015, deletes or extends that date.~~